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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,935	04/06/2001	Daniel John Lloyd-Jones	169.2014	3602

5514 7590 03/11/2008

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EXAMINER	
FABER, DAVID	

ART UNIT	PAPER NUMBER
2178	

MAIL DATE	DELIVERY MODE
03/11/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/826,935	LLOYD-JONES ET AL.	
	Examiner	Art Unit	
	DAVID FABER	2178	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 January 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-5,11-15,18-21,23,26-28,34-38,41-54 and 56* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-5,11-15,18-21,23,26-28,34-38,41-54 and 56* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *1/29/08*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to the Request for Continued Examination filed on 29 January 2008 and the Information Disclosure Statement filed on 29 January 2008.

This office action is made Non Final.

2. Claims 2, 6, 8, 24, 25, 29, 31, and 55 have been cancelled by the Applicant.

3. Claims 1, 5, 11, 13, 14, 23, 26, 28, 34-38, 41-48, 50-54, and 56 have been amended.

4. The rejection of Claim 24, under 35 U.S.C. 112, sixth paragraph, has been withdrawn as necessitated by the amendment.

5. Claims 1, 3-5, 11-15, 18-21, 23, 26-28, 34-38, 41-54, and 56 are pending. Claims 1, 23, and 56 are independent claims.

Information Disclosure Statement

6. The information disclosure statement filed 29 January 2008 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the reference listed failed to its pertinent pages. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based

on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Specification

7. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The phrases "computer readable medium" is not found to have proper antecedent basis in the specification; however it is necessary to use this terminology in order to properly define the claim within the boundaries of statutory subject matter, because the phrase "computer readable medium" would appear to be reasonable to interpret media for "radio or infra-red transmission channel the computer module and another device" as fairly conveying signals and other forms of propagation or transmission media to one of ordinary skill. In order to overcome the object, an amendment to the specification is necessary constituting a non-exhaustive statement of what the phrase "computer-readable medium" would be as it would have been known to one of ordinary skill in the art at the time of the invention, in order to verify that the term "computer-readable medium" could not be taken in the context of non-statutory subject matter.

Claim Rejections - 35 USC § 101

8. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. Claims 23, 26-28, 34-38, 41-44, and 50-54 remains rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

For your reference, below is a section from MPEP 2105 :

(a) Functional Descriptive Material: "Data Structures" Representing Descriptive Material Per Se or Computer Programs Representing Computer Listings Per Se
Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer. See, e.g., Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory.
Similarly, computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs, are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. Accordingly, it is important to distinguish claims that define descriptive material per se from claims that define statutory inventions.
Computer programs are often recited as part of a claim. Office personnel should determine whether the computer program is being claimed as part of an otherwise statutory manufacture or machine. In such a case, the claim remains statutory irrespective of the fact that a computer program is included in the claim. The same result occurs when a computer program is used in a computerized process where the computer executes the instructions set forth in the computer program. Only when the claimed invention taken as a whole is directed to a mere program listing, i.e., to only its description or expression, is it descriptive material per se and hence nonstatutory.
Since a computer program is merely a set of instructions capable of being executed by a computer, the computer program itself is not a process and Office personnel should treat a claim for a computer program, without the computer-readable medium needed to realize the computer program's functionality, as nonstatutory functional descriptive material. When a computer program is claimed in a process where the computer is executing the computer program's instructions, Office personnel should treat the claim as a process claim. See paragraph IV.B.2(b), below. When a computer program is recited in conjunction with a physical structure, such as a computer memory, Office personnel should treat the claim as a product claim.

10. Claims 26-28, 34-38, 41-44, and 50-54 remain rejected under 35 U.S.C. 101

because the claimed invention is directed to non-statutory subject matter. The claims appear to be claiming "software systems" i.e. systems without hardware indication, which is a computer program per se. Since the claims disclose computer program per se that is not embodied on a computer readable medium, they appear non-statutory.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

12. Claims 1, 3-5, 11, 13, 15, 18, 20-21, 23, 26-28, 34, 36, 38, 41, 43-54, and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eintracht et al (US Patent #6,687,878, filed 3/15/1999) in further in view of Berquist et al (US Patent #5,821,931, patented 10/13/1998) in further view of Schneiderman (US PGPub 2002/0054059 filed on 10/5/2001, which is cont. of PCT /US01/04963 filed 2/16/2001, which is a non-provisional of provisional application filed 4/17/2000, which is a non-provisional of provisional application filed 2/18/2000) in further view of Murray et al (US Patent #6,597,800, filed 9/22/1999) in further view of Conlon et al (US Patent 6,411,313, filed 6/14/1999)

As per independent Claim 1, Eintracht et al discloses a method comprising:

- Displaying the plurality of icons, each of the icons being labelled with one or more of the metadata labels with which the icon was associated. (Fig 1B, 1C,

indicator 16: Discloses a plurality of notes in a location that was predetermined placed being attached to various regions on the image (Column 7, lines 1-5) Column 15, lines 11-13, e.g., discloses text can be inputted which produces the note as a label, thus displayed as a metadata label. In addition, the note itself is the icon, while the text input is the labeling aspect of the icon. Thus, Eintracht et al's note is an icon with metadata label capabilities of being displayed)

- Detecting selection of at least one of the displayed plurality of icons. (Column 15, lines 24-27: Discloses selecting a note to be dragged and dropped to another location on an image. The detection is inherently detected by positioning the cursor over the note and activating the cursor to note enabling it to be moved or dragged to a new location.)
- linking the one or more metadata labels associated with the selected icon with a description of the location of the selected subject within the image, and storing the linked one or more metadata labels and the description as an annotation of the image. (Eintracht et al discloses in Column 19, lines 42-67, notes are stored being associated with a document or image and in FIG 11; Column 17, lines 29-30, Eintracht et al discloses an anchor field for each note in a database that stores the coordinates of the of the note in the document thus linking the note to the document and disclosing the precise location of the note in the document.)

Eintracht et al fails to specifically disclose when determining a location on a image of one or more metadata labels associated with the selected icon being related to said selected subject. However, Eintracht et al discloses that text can be entered into the metadata area (Column 15, lines 11-13). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention that text inputted into a note that it would contain related subject matter to the image the note would be placed on, then place the note with the information onto the subject in the image would have provided the benefit of a user using the note annotation to know the details regarding the subject matter within an image or document.

In addition, Eintracht et al fails to specifically disclose displaying the image adjacent to said plurality of icons. However, Berquist et al discloses in FIG 4, a number of notes being displaying adjacent to an application program executing window containing a document. In addition, FIG 6 discloses a note placed adjacent to a window containing a document before being dragged onto the document. While Berquist et al discloses an embodiment of notes being adjacent to document, Berquist et al discloses a note may be attached to a graphic or a video frame. It was well-known in the art at the time of Applicant's invention document have the ability to contain images, or the application program running had the ability to only show an image, thus therefore it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention that a note could be displayed adjacent to the image within a document or within an application program since Berquist et al would have provided the benefit to

Eintracht et al in which preventing objects on the screen from overlapping, and being able to determine a location prior in moving the object onto the desired location.

However, Eintracht and Berquist fail to specifically disclose extracting a plurality of metadata labels from an extracting a plurality of metadata labels from an existing database of metadata labels to form a list of metadata labels; said metadata labels are generated prior to having knowledge of the content of the image. However, Schneiderman discloses list of metadata labels, i.e. names of people that appear in a selectable menu list wherein the list of names have been previously entered into the database. (FIG 3, Paragraph 0011, 0015, 0049) Thus, the names were extracted from the database and displayed into a selectable list before having knowledge of the content of the image appearing next to the list.

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to have modified Eintracht and Berquist with Schneiderman ability to display a list of names labels that were extracted from a database since it would have provided the benefit of addresses known problems of annotating commercial and/or personal electronic images, by providing software that permits users to easily accomplish such annotation, through the drag-and-drop of annotations from a predefined list.

However, Eintracht, Berquist, and Schneiderman fail to specifically disclose forming a plurality of bounded regions within the image about the location at which the subject is rendered in said image, the bounded region being configured substantially surround the subject. However, Murray et al discloses subject the image to primary

segmentation in which the image is divided up into one or more primary homogenous regions each approximating to an object of interest, wherein each bounding box is the rectangle which encloses the segmented pixels forming a primary homogenous region which depicts objects of interest (Column 2, lines 63-65; Column 4, lines 27-30)

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to have combined Eintracht et al, Berquist et al, and Schneiderman's method with Murray et al's method since Murray et al's method would have provided the benefit of an automatic recognition of subjects to identify the presence of people.

Furthermore, Eintracht et al, Berquist et al, Schneiderman, and Murray fail to specifically disclose dragging the selected icon to the image, such that at least one of said bounded regions is changed upon the selected icon being dragged over the at least one bounded region in order to emphasize the at least one bounded region; dropping the selected icon within the at least one bounded region, wherein the bounded region corresponds to a selected subject within the image. However, Conlon et al discloses an feature wherein a user using a mouse clicks and drags an icon over a (bounded) region for the icon to be dragged, the region is highlighted by the change the color of its outline. Thus, when the releases the icon over the region, the icon is dropped into the region of subject interest. (FIG 4A, Column 6, line 66 – Col 7, line 20)

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to have combined Eintracht et al, Berquist et al, Schneiderman's, and Murray et al with Conlon et al method's of drop and drag functionality involving

regions since Conlon et al's method would have provided the benefit to informing the user of what region an icon would be dropped in if done so by displaying a more clearly graphically indication, such as, highlighting, the region in which the icon is hovering over.

As per dependent Claims 3 and 4, Eintracht et al, Berquist et al, and Schneiderman fail to specifically disclose the bounded region is formed based on an analysis of pixels of the image and the analysis of the colour information of the pixels of the image. However, Murray et al discloses a process in which an image is captured by a camera utilizing a two dimensional array of light intensity sensitive pixels that carries out the processing on the image data to separate and identify objects from the background appearing in the image. (Column 1, lines 15-30) Then, Murray et al discloses the bounding box encloses segmented pixels forming homogeneous region of objects of interest. (Column 2, lines 63-65; Column 4, lines 27-30) Therefore, when objects are being identified, being bounded with boxes and separated based on the interest, pixels are being analyzed to determined which pixels are the same within the region to be separate from the different region of pixels based on the color of the pixel or the difference of visible light shown.

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to have combined Eintracht et al, Berquist et al, and Schneiderman's method with Murray et al's method since Murray et al's method since Murray et al's method would have provided the benefit of an automatic recognition of a target object that improves the accuracy of target object recognition and identification.

As per dependent Claims 5, 13, 48, and 53, Eintracht et al, Berquist et al, and Schneiderman fail to specifically disclose the bounded region corresponding to the selected subject is of a predetermined size or determined automatically, and the size of the bounded region corresponding to the selected subject is determined based on the analysis. However, Murray et al discloses the bounding box just encloses the segmented pixels forming a primary homogenous region. (Column 2, lines 63-65; Column 4, lines 27-30) Therefore, only bounding related pixels, the box is determined automatically and is predetermined based on the number of related pixels. In addition, when objects are being identified, being bounded with boxes and separated based on the interest, pixels are being analyzed to determined which pixels are the same within the region to be separate from the different region of pixels. Thus, the size is being determined to form a homogenous region.

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to have combined Eintracht et al, Berquist et al, and Schneiderman's method with Murray et al's method since it provided the benefit of only bounding a region of related pixels of interest from regions of no interest.

As per dependent Claim 11, Eintracht et al, Berquist et al, and Schneiderman fail to specifically disclose the step of extracting a part of the image based on the bounded region. However, Murray et al discloses an image being divided into one or more primary homogenous regions and extracting the data from the image regarding the primary regions. (Column 2, lines 63-67)

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to have combined Eintracht et al, Berquist et al, and Schneiderman's method with Murray et al's method since it provided the benefit of extracting individual complete objects for further image processing.

As per dependent Claim 15, Claim 15 recites similar limitations as in Claim 1 and is rejected under similar rationale. Furthermore, Eintracht et al discloses:

- wherein one or more metadata labels are stored as the annotation of the subject and are displayed upon selecting the subject in the image. (Column 7, lines 13-17, discloses when a note is selected on the note list, its counterpart icon in the document window frame is highlighted)

As per dependent Claim 18, Eintracht et al discloses a method:

- wherein said storing step included storing the one or more metadata labels as the annotation of the subject of the image by using a tag indicating an association with the image (Column 3 Lines 13-36 i.e. the document file for storing one or more documents, a notes database located on the server, the notes database for storing one or more notes, each note or tag associated with a particular document or subject, one or more notes clients coupled to a network, each notes client operative to locally display a representation of a document remotely stored on the server in the document file, the notes client adapted to permit a user to annotate the document with one or more notes, the notes client operative to simultaneously display the one or more notes

associated with the document over the displayed document such that the document is viewable along with the one or more notes)

As per dependent Claim 20, Eintracht et al discloses a method further comprising:

- the step of e-mailing at least the image to at least one e-mail address based on the one or more metadata labels associated with the image. (Column 22 Lines 33-37 i.e. emails to client or user)

As per dependent Claim 21, Eintracht et al discloses a method further comprising:

- the step of replacing a default icon by the selected icon based on the subject of the image. (Column 15, lines 10-37,discloses the ability to view, create, modify, or delete notes. Therefore, one can delete the icon located on the selected subject, and either create a new note or move a note to a new location onto that subject).

As per independent Claim 23, Claim 23 recites a "computer readable medium…" for performing the method of Claim 1, and therefore is similarly rejected under rationale.

As per dependent Claim 26, Claim 26 recites similar limitations as in Claim 3 and is similarly rejected under rationale.

As per dependent Claim 27, Claim 27 recites similar limitations as in Claim 4 and is similarly rejected under rationale.

As per dependent Claim 28, Claim 28 recites similar limitations as in Claim 5 and is similarly rejected under rationale.

As per dependent Claim 34, Claim 34 recites similar limitations as in Claim 11 is similarly rejected under rationale.

As per dependent Claim 36, Claim 36 recites similar limitations as in Claim 13 is similarly rejected under rationale.

As per dependent Claim 38, Claim 38 recites similar limitations as in Claim 15 and is similar rejected under rationale.

As per dependent Claim 41, Claim 41 recites similar limitations as in Claim 18 and is similar rejected under rationale.

As per dependent Claim 43, Claim 43 recites similar limitations as in Claim 20 and is similar rejected under rationale.

As per dependent Claim 44, Claim 44 recites similar limitations as in Claim 21 and is similar rejected under rationale.

As per dependent Claims 45 and 46, Eintracht et al, Berquist et al, and Schneiderman to specifically disclose the description includes a location and the size of the bounded region corresponding to the selected subject within the image. However, Murray et al discloses a bounding box encloses segmented pixels forming a primary homogenous region wherein the information is transmitted to an extraction device. Since a bounding box is formed around the pixels, the size is by the pixels within the box and a location is found by where the box is located. Thus, it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to have combined Eintracht et al, Berquist et al, and Schneiderman's method with Murray et al's method of a bounding box since the bounding box data would have provided the user

information on the location of a object of interest and the size of the object within an image.

As per dependent Claim 47, Claim 47 recites similar limitations as in Claim 1 and is similarly rejected under rationale.

It would have been oblivious to one of ordinary skill in the art the time of Applicant's invention to have combined have combined Eintracht et al, Berquist et al, and Schneiderman's method with Murray et al's method of bounding box since it provide the benefit of a clear identification of an object that's being identified in an image.

As per dependent Claim 49, Eintracht et al discloses a method:

- the linked one or more metadata labels and the descriptions are stored as an annotation of the subject of the image. (Eintracht et al discloses in Column 19, lines 42-67, notes are stored being associated with a document or image and in FIG 11; Column 17, lines 29-30, Eintracht et al discloses an anchor field for each note in a database that stores the coordinates of the of the note in the document thus linking the note to the document and disclosing the precise location of the note in the document.)

As per dependent Claims 50-51, Claim 50-51 recites similar limitations as in Claim 45-46 and is similarly rejected under rationale

As per dependent Claims 52, Claim 52 recites similar limitations as in Claim 47 and is similar rejected under rationale.

As per dependent Claim 54, Claim 54 recites similar limitations as in Claim 49 and is similar rejected under rationale.

As per independent claim 56, Claim 56 recites similar limitations as in Claim 1 and is similar rejected under rationale. Furthermore, Schneiderman discloses displaying a representation of each of the metadata labels in the list. (FIG 3)

13. Claims 12 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eintracht et al (US Patent #6,687,878, filed 3/15/1999) in further in view of Berquist et al (US Patent #5,821,931, patented 10/13/1998) in further view of Schneiderman (US PGPub 2002/0054059) in further view of Murray et al (US Patent #6,597,800, filed 9/22/1999) in further view of Conlon et al (US Patent 6,411,313, filed 6/14/1999) in further view of Takaha (US Patent #6,021,221, patented 2/1/2000).

As per dependent Claim 12, Eintracht et al, Berquist et al, Schneiderman, Murray et al, and Conlon et al fail to specifically disclose displaying the extracted part of the image. However, Takaha discloses displaying the extracted image of the pixels that were extracted from the original image (Column 6, lines 2-5; Column 15, line 66 – Column 16, 2)

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to have combined Eintracht et al, Berquist et al, Schneiderman Murray et al, Conlon et al's methods with Takaha's method since Takaha's method would have provided the benefit of only showing areas of interest within an image after extracting.

As per dependent Claim 35, Claim 35 recites similar limitations as in Claim 12 and is similar rejected under rationale.

14. Claims 14 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eintracht et al (US Patent #6,687,878, filed 3/15/1999) in further in view of Berquist et al (US Patent #5,821,931, patented 10/13/1998) in further view of Schneiderman (US PGPub 2002/0054059) in further view of Murray et al (US Patent #6,597,800, filed 9/22/1999) in further view of Conlon et al (US Patent 6,411,313, filed 6/14/1999) in further view of Doyle (US Patent #6,616,701, filed 4/3/2001; continuation of appl #09/316,496, filed 5/21/1999; provisional appl. #60/086,620, filed 5/23/1998).

As per dependent Claim 14, Eintracht et al, Berquist et al, Schneiderman, Murray et al, and Conlon et al fail to specifically disclose that the size of the bounded region is changeable by the user. However, Doyle discloses objects in the image data are interactively outlined in which the user is present. (Column 3, lines 23-25) Since the process of outlining can be done interactively, the user is defining and/or changing the size of the bounded region.

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to have combined Eintracht et al, Berquist et al, Schneiderman, Murray et al, and Conlon et al's methods with Doyle's method since Doyle's method would have provided the method allowing objects within in a single multidimensional dataset to be mapped.

As per dependent Claim 37, Claim 37 recites similar limitations as in Claim 14 and is similar rejected under rationale.

15. Claims 19 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eintracht et al (US Patent #6,687,878, filed 3/15/1999) in further in view of Berquist et al (US Patent #5,821,931, patented 10/13/1998) in further view of Schneiderman (US PGPub 2002/0054059) in further view of Murray et al (US Patent #6,597,800, filed 9/22/1999) in further view of Conlon et al (US Patent 6,411,313, filed 6/14/1999) in further view in further view of Balabanovic et al (US Patent #6,976,229, filed 12/16/1999).

As per dependent Claim 19, Eintracht et al, Berquist et al, Schneiderman, Murray et al, and Conlon et al fail to specifically disclose the one or more predetermined metadata labels associated with the subject of the image are stored in an XML file. However, Balabanovic et al discloses metadata regarding information to an image being stored in an XML format/file. (FIG 5(a,b)-6; Column 10, lines 1-3, 21- 22, 40-41)

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to have combined Eintracht et al, Berquist et al, Schneiderman, Murray et al, and Conlon et al's method with Balabanovic et al's method of using metadata in XML format since it would have provided the benefit of flexibility to for the file to be easily translated into other formats to viewed by other on different devices.

As per dependent Claim 42, Claim 42 recites similar limitations as in Claim 13 and is similar rejected under rationale.

Response to Arguments

16. Applicant's arguments with respect to claims 11, 3-5, 11-15, 18-21, 23, 26-28, 34-38, 41-54, and 56 have been considered but are moot in view of the new ground(s) of rejection.

Arguments address regarding of the new limitations of Claims 1, 23, , and 56 brought forth in forming a plurality of bounded regions within the image about the location at which the subject is rendered in said image, the bounded region being configured substantially surround the subject; dragging the selected icon to the image, such that at least one of said bounded regions is changed upon the selected icon being dragged over the at least one bounded region in order to emphasize the at least one bounded region; dropping the selected icon within the at least one bounded region, wherein the bounded region corresponds to a selected subject within the image has been viewed the new ground of rejection of 35 USC 103(a) under new references using Murray et al and Conlon et al.

17. Applicant's arguments filed 29 January 2008 have been fully considered but they are not persuasive.

18. On page 13, in regards to Applicant's argument of claims 23, 26-28, 34-38, 41-44, and 50-54 rejected under 35 USC 101, Applicant argues the claims refer to a computer readable medum and therefore comply with the statutory subject matter requirement. However, Claims 23, 26-28, 34-38, 41-44, and 50-54 lack the necessary

physical articles or objects to constitute a machine or a manufacture within the meaning of 101. The specification fail discloses of disclosing a computer-readable medium as hardware devices; thus, are viewed as software in view of data structures. Therefore, the claims, themselves, lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory. They are, at best, functional descriptive material per se. Thus, in regards to claims 23, 26-28, 34-38, 41-44, and 50-54, the claims, as written, appear to be claiming "software systems" i.e. systems without hardware indication, which is computer program per se. The claims as written do not recite any hardware indication, therefore, viewed as "software systems".

Conclusion

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Manolis et al (US Patent 6,583, 799): Discloses dropping and dragging an icon over a focused region.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Faber whose telephone number is 571-272-2751. The examiner can normally be reached on M-F from 8am to 430pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Hong, can be reached on 571-272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/David Faber/
Examiner, Art Unit 2178

/CESAR B PAULA/
Primary Examiner, Art Unit 2178